

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MATTHEW McDONOUGH,

Plaintiff,

vs.

Case No. 15-11916

COMMISSIONER OF SOCIAL SECURITY,

HON. AVERN COHN

Defendant.

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**MEMORANDUM AND ORDER GRANTING PLAINTIFF'S MOTION FOR ATTORNEY
FEES (Doc. 20)¹**

I.

This is a Social Security case. Plaintiff Matthew McDonough (McDonough) appealed the decision of the Commissioner of Social Security (Commissioner) denying his application for Disability Insurance Benefits. McDonough sought benefits due to a mental impairment, Bipolar Affective Disorder, Type I. McDonough filed a motion for summary judgment, (Doc. 9). The Commissioner filed a cross motion for summary judgment, (Doc. 11). The motions were referred to a magistrate judge for a report and recommendation (R&R), (Doc. 13). The R&R recommended that the Court grant McDonough's motion for summary judgment, deny the Commissioner's cross motion for summary judgment, and reverse and remand for the award of benefits. The Commissioner has filed objections to the R&R, (Doc. 14), to which McDonough

¹Upon review of the parties' papers, the Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78(b); E.D. Mich. LR 7.1(f)(2).

responded, (Doc. 15). Following a hearing, the Court issued an order adopting the R&R, overruling the Commissioner's objections, denying the Commissioner's motion for summary judgment and granting McDonough's motion for summary judgment, and remanding the matter for an award of benefits. (Doc. 18).

Before the Court is McDonough's motion for attorney fees. For the reasons that follow, the motion will be granted.

II.

The Equal Access to Justice Act (EAJA) provides that the Court shall award attorney fees and expenses to a prevailing party (other than the United States) in any civil action brought against the United States, unless the position of the government was substantially justified. 28 U.S.C. § 2412(d)(1)(A). The EAJA also provides that the attorney fees awarded may not be at a rate of more than \$125 per hour, unless the Court determines that an increase in the cost of living, or some other special factor, justifies a higher fee. *Id.* § 2412(1)(D)(2)(A).

Here, McDonough's counsel seeks attorney fees at the rate of \$176.47 per hour for 68 hours, for a total of \$12,000.00 in attorney fees plus reimbursement of the \$400.00 filing fee. The Commissioner objects only to the total hours spent on the case. The Commissioner contends that counsel should have expended only 42.5 attorney hours which affords counsel "a slight adjustment over the normal range of hours" and provides for an award of \$75,00.00 in attorney fees. The Commissioner's objection is not well-founded.² McDonough's counsel provided detailed billing records

²The objection appears to be nothing more than pettifogging.

demonstrating and justifying 68 hours of attorney time spent on the case.

III.

For the reasons stated above, McDonough's motion is GRANTED. McDonough is entitled to an award of attorney fees in the amount \$12,000.00 plus \$400.00, for a total award of \$12,400.00.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: January 25, 2017
Detroit, Michigan